

## 2008 Proposed TOD Guideline Changes-2<sup>nd</sup> DRAFT

November 24, 2008

On October 10<sup>th</sup>, the Department released for public comment a first draft of proposed revised guidelines for the TOD Housing Program. By the end of the open comment period, the Department had received over 280 individual written comments from over 60 commenters, plus over 100 oral comments provided at four stakeholder meetings held around the state. Below are the proposed changes resulting from these comments.

### Guideline Section 105(c)

#### Proposed Change:

Construction of the Housing Development must commence within threefive years of the Program award and must be completed within fiveeight years of the Program award date.

#### Reason:

In response to numerous comments suggesting that there is a need for housing and economic stimulus sooner rather than later, the Department is proposing to shorten the time period allowed for commencement of housing construction from 5 years to 3 years and completion from 8 years to 5 years.

### Guideline Section 105(d)(3)

#### Proposed Change:

Housing Developments ~~not containing Incremental Units~~ shall be ineligible to receive Program funding if receiving either a nine-percent tax credit allocation from TCAC or receiving an award of MHP funds, except under the following circumstances:

(A) Program funding is limited to Incremental Units;

(B) Program funding is limited to ~~Incremental Units that are not~~ supportive housing units in Housing Developments receiving funds under the Supportive Housing component of MHP; or

(C) The application receives the maximum 170 points available under the following subdivisions of section 108: (b), (c), (d), (e), (f), (h), and (i).

**Reason:**

This proposed change is in response to a number of suggestions requesting that, in certain instances, applicants who are seeking a 9% tax credit allocation from TCAC may also be allowed to receive Program funding. This change will broaden the provisions under which Program funding may be used with 9% tax credits.

**Guideline Section 105(g)(8)**

**Proposed Change:**

Rental Housing Developments supported by the Infrastructure Project shall be subject to a recorded covenant ensuring affordability for a duration of at least 55 years. Homeownership Housing Developments supported by the Infrastructure Project shall be subject to a recorded covenant with a duration of at least 30 years that includes either a resale restriction or equity sharing upon resale.

**Reason:**

The Department proposes this addition to the guidelines to clarify its intent that the affordability restrictions remain in place for the duration of Program assistance.

**Guideline Section 106(d)(3)**

**Proposed Change:**

awarding not less than 40% of funds to Projects served by Qualifying Transit Stations not served by heavy rail (BART and Metro Red Line). at least one Project within each of the regions encompassed by the Association of Bay Area Governments (ABAG); the Sacramento Association of Governments (SACOG); the San Diego Association of Governments (SANDAG); or the Southern California Association of Governments (SCAG).

**Reason:**

The Department received many comments proposing to eliminate or reduce the scoring advantage provided under the existing guidelines to projects located near heavy rail stations, so that projects in more areas would be competitive. It was also noted that guaranteeing each major COG at least one award resulted in

some high-scoring applications, which clearly met all of the program's policy objectives, being passed over for those with relatively low scores, which arguably did not meet these objectives.

The proposed revisions to this section allow up to 60% of program funds to be used for projects located near heavy rail stations with high population densities. The emphasis remains on these areas because development in them offers the largest payoff, in terms of increased transit ridership and reduced auto use.

However, in recognition of that fact that there are many areas of the state not served by heavy rail where transit-oriented development has substantial, positive impact on increased transit ridership and reduced vehicle use, and to encourage this type of development in these areas, the Department is now proposing to target at least 40% of program funds to areas not served by heavy rail. By eliminating the requirement for one project per COG, it is proposing to allow the 40% to be used on the most meritorious projects.

#### **Guideline Sections 107(a)(6)**

##### **Proposed Change:**

Rental Housing Developments must meet the underwriting standards in the Uniform Multifamily Regulations, 25 CCR 8308 through 8312. However, the Department may use alternative underwriting standards for Housing Developments receiving 9% tax credits or that have more than 20 percent market-rate, unrestricted units or more than 100 total units.

##### **Reason:**

Some of the underwriting standards in the cited regulations are overly restrictive for large projects with high per unit costs, which is typical for TOD projects. In particular, the \$1.2 million limit on developer fee has not been adjusted based on inflation for a number of years, and was meant to apply to what were expected to be typically smaller and less costly MHP, Serna Farmworker and HOME projects.

#### **Guideline Section 107(a)(10)**

##### **Proposed Change:**

If the application involves the demolition or rehabilitation of existing units affordable to lower income households, the Housing Development must include units with similar or greater affordability, equal to or greater than the number of the existing affordable units.

**Reason:**

A number of commenters noted that existing guidelines do not require preservation of existing affordability levels, when units are being demolished or rehabilitated. This change is intended to avoid program funding resulting in affordability levels being reduced, in existing developments.

**Guideline Section 107(b)(7):**

**Proposed Change:**

The Infrastructure Project is infeasible without the requested Program funds, and other available funds are not being supplanted by Program funds.

**Reason:**

Clarification that in this context, Project means Infrastructure Project.

**Guideline Section 107(b)(13)**

**Proposed Change:**

If the application involves the demolition or rehabilitation of existing units affordable to lower income households, the Housing Development must include units with similar or greater affordability, equal to or greater than the number of the existing affordable units.

**Reason:**

A number of commenters noted that existing guidelines do not require preservation of existing affordability levels, when units are being demolished or rehabilitated. This change is intended to avoid reducing affordability in a funded project.

**Guideline Section 108(d)(1)**

**Proposed Change:**

Adding the following to the table of Transit Supportive Amenities and Services: Internet Café, Postal Mailing & Shipping Center, and Bicycle Shop.

**Reasons:**

These are additional transit supportive services sometimes found within a half-mile of transit stations.

#### **Section 108(e)(5)**

##### **Proposed Change:**

The Qualifying Transit Station has bicycle access and provides secure bicycle storage facilities, or the transit service allows bicycle conveyance on-board~~corridor is adequately lighted to accommodate pedestrian use after dark.~~

##### **Reason:**

This proposed change eliminates the requirement that the transit station has secure bicycle storage as long as the transit service allows on-board bicycle conveyance.

#### **Section 108(f)**

##### **Proposed Change:**

Points will be awarded based on the extent to which the pricing, supply, and management of motor vehicle parking serving the Housing Development promotes economic efficiency and minimizes the development of new parking spaces as ~~follows: detailed below.~~ Projects that do not include parking will automatically receive the maximum available points under all subcategories except 108(f)(2).

##### **Reasons:**

Comments were received noting that a highly effective way to discourage auto use was to not provide any parking at all, and that this strategy was not recognized by the existing guidelines. The Department agrees with the main thrust of these comments, and is proposing to award 25 out of 30 possible points in this category to projects that do not include parking.

Some commenters argued for awarding all 30 points for not providing parking. However, the Department believes that there still should be an incentive for providing discounted transit passes, and proposes to award 5 points for projects that take this extra step. The cost of a 50% discount is not great, especially in those cases where the tenant population is already eligible for a discounted fare, or where the transit provider is willing to provide a discount for bulk purchases.

### **Guideline Section 108(g)(3)**

#### **Proposed Change:**

Applications demonstrating that all necessary discretionary local land use approvals, excluding design review, have been granted ~~Obtaining all necessary and discretionary public land use approvals, excluding building permits and other ministerial approvals~~ (8 points).

#### **Reasons:**

The Department proposes to clarify that projects need to not have design review approval to receive full points in this scoring subcategory.

### **Guideline Section 108(g)(5)**

#### **Proposed Change:**

Applications for land acquisition loans pursuant to Section 105(f) shall first be ranked together with all applications based on their scores under all scoring categories and awards made according to rank up to a total maximum of \$6 million for all land acquisition applications. If such awards total less than \$6 million, the remaining land acquisition applications shall receive an additional score equal to the difference between 30 and the largest readiness score received by a land acquisition application. Those applications receiving an enhanced score shall then be ranked with all the other applications and funds awarded accordingly, up to the maximum \$6 million for land acquisition applications.

#### **Reasons:**

The Department agreed with comments suggesting that in most cases, land acquisition applications from redevelopment agencies are inherently disadvantaged under the readiness scoring section. In an attempt to alleviate this, the Department proposes to automatically award up to the maximum 30 points available under this section to the highest scoring land acquisition applications except in cases where an application actually scores points under any Section 108(g) subcategory, in which case the difference between that score and 30 will be awarded. These applications will then be ranked against all other applications with a maximum of \$6 million available.

### **Guideline Section 108(k)(2)(3)(4)**

#### **Proposed Change:**

(2) Applications for Housing Developments with 150 to 199 residential units shall receive 25 points.

(3) Applications for Housing Developments with 100 to 149 residential units shall receive 20 points.

(4) Applications for Housing Developments with 50 to 99 residential units shall receive 15 points.

**Reason:**

This proposed change awards project size points on a broader scale than provided for under the original guidelines.

**Guideline Section 108(I)(2)**

**Proposed Change:**

5 points shall be awarded to applications for Projects located in jurisdictions that have integrated economic development strategies, are in a state-approved Enterprise Zone, or are in an eligible New Market Tax Credit census tract.

**Reason:**

The Department agreed with comments suggesting other measurements of economic development strategies that include state Enterprise Zones and eligible NMTC census tracts.